

Order

Michigan Supreme Court
Lansing, Michigan

September 26, 2007

Clifford W. Taylor,
Chief Justice

133986 & (45)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

CARL STONE and NANCY STONE,
Plaintiffs-Appellees,

v

SC: 133986
COA: 265048
Jackson CC: 03-001912-NH

DAVID A. WILLIAMSON, M.D., JACKSON
RADIOLOGY CONSULTANTS, P.C., and
W.A. FOOTE MEMORIAL HOSPITAL,
Defendants-Appellants.

On order of the Court, the motion for miscellaneous relief is GRANTED. The application for leave to appeal the April 17, 2007 judgment of the Court of Appeals is considered, and it is GRANTED, limited to the following issues: (1) whether the requirements set forth in the second sentence of MCL 600.2912a(2) apply in this case; (2) if so, whether the “loss of an opportunity to survive or an opportunity to achieve a better result” should be determined by considering the aggregate increased risk posed by the alleged malpractice, including risks associated with injuries that the patient did not suffer and any increased risk of death, or whether the only consideration should be the increased risk of the specific injury or injuries suffered by the patient; (3) whether *Fulton v William Beaumont Hosp*, 253 Mich App 70 (2002), was correctly decided, or whether a different approach is required to correctly implement the second sentence of § 2912a(2), such as that described in Roy W. Waddell, M.D.’s *A Doctor’s View of Opportunity to Survive: Fulton’s Assumptions and Math are Wrong*, published in the March, 2007 edition of the Michigan Bar Journal at 32; and (4) whether the Court of Appeals erred when it determined that the plaintiffs met the requirements of § 2912a(2).

The Clerk of the Court is directed to place this case on the January 2008 session calendar for argument and submission. Appellants’ brief and appendix must be filed no later than November 16, 2007, and appellees’ brief and appendix, if appellees choose to submit an appendix, must be filed no later than December 17, 2007.

The Michigan State Medical Society, Michigan Health and Hospital Association, Michigan Association of Justice, and Michigan Defense Trial Counsel, Inc., are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 26, 2007

A handwritten signature in cursive script that reads "Corbin R. Davis".

Clerk